



## Senate

General Assembly

February Session, 2008

**File No. 545**

Senate Bill No. 704

*Senate, April 9, 2008*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

### ***AN ACT CONCERNING THE RELEASE, SALE AND ACCURACY OF CONVICTION INFORMATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (h) of section 31-51i of the 2008 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective May 1, 2008*):

4 (h) (1) For the purposes of this subsection: (A) "Consumer reporting  
5 agency" means any person who regularly engages, in whole or in part,  
6 in the practice of assembling or preparing consumer reports for a fee,  
7 which reports compile and report items of information on consumers  
8 that are matters of public record and are likely to have an adverse  
9 effect on a consumer's ability to obtain employment, but does not  
10 include any public agency; (B) "consumer report" means any written,  
11 oral or other communication of information bearing on an individual's  
12 credit worthiness, credit standing, credit capacity, character, general  
13 reputation, personal characteristics or mode of living; and (C)  
14 "criminal matters of public record" means information obtained from

15 the Judicial Department relating to arrests, indictments, convictions,  
16 [erased records, pardons and] outstanding judgments, and any other  
17 conviction information, as defined in section 54-142g.

18 (2) Each consumer reporting agency that issues a consumer report  
19 that is used or is expected to be used for employment purposes and  
20 that includes in such report criminal matters of public record  
21 concerning the consumer shall:

22 (A) At the time the consumer reporting agency issues such  
23 consumer report to a person other than the consumer who is the  
24 subject of the report, provide the consumer who is the subject of the  
25 consumer report (i) notice that the consumer reporting agency is  
26 reporting criminal matters of public record, and (ii) the name and  
27 address of the person to whom such consumer report is being issued;

28 [(B) Access the conviction information available to the public on the  
29 Internet web site of the Judicial Department to verify, as of the date the  
30 consumer report is issued, the accuracy of any criminal matters of  
31 public record contained in the consumer report;]

32 [(C)] (B) Maintain procedures designed to ensure that any criminal  
33 matter of public record reported is complete and up-to-date as of the  
34 date the consumer report is issued, which procedures shall, at a  
35 minimum, conform to the requirements set forth in section 2 of this act.

36 (3) This subsection shall not apply in the case of an agency or  
37 department of the United States government seeking to obtain and use  
38 a consumer report for employment purposes if the head of the agency  
39 or department makes a written finding pursuant to 15 USC  
40 1681b(b)(4)(A).

41 Sec. 2. (NEW) (*Effective May 1, 2008*) (a) Notwithstanding the  
42 provisions of subsection (e) of section 54-142a of the general statutes  
43 and section 54-142c of the general statutes, with respect to any person,  
44 including, but not limited to, a consumer reporting agency as defined  
45 in subsection (h) of section 31-51i of the 2008 supplement to the general

46 statutes, as amended by this act, who purchases criminal matters of  
47 public record, as defined in said subsection (h), from the Judicial  
48 Department, the department shall make available to such person  
49 information concerning such criminal matters of public record that  
50 have been erased pursuant to section 54-142a of the general statutes.  
51 Such information may include docket numbers or other information  
52 that permits the person to identify and permanently delete records that  
53 have been erased pursuant to section 54-142a of the general statutes.

54 (b) Each person, including, but not limited to, a consumer reporting  
55 agency, that has purchased records of criminal matters of public record  
56 from the Judicial Department shall, prior to disclosing such records, (1)  
57 purchase from the Judicial Department, on a monthly basis or on such  
58 other schedule as the Judicial Department may establish, any updated  
59 criminal matters of public record or information available for the  
60 purpose of complying with this section, and (2) update its records of  
61 criminal matters of public record to permanently delete such erased  
62 records. Such person shall not further disclose such erased records.

This act shall take effect as follows and shall amend the following sections:		
Section 1	May 1, 2008	31-51i(h)
Sec. 2	May 1, 2008	New section

**JUD**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Judicial Dept.	Data Processing Revolving Fund - Cost / Cost Recovery	Minimal	Minimal

**Municipal Impact:** None

**Explanation**

The bill requires anyone, including a consumer reporting agency, when purchasing reports that include criminal matters of public records from the Judicial Department to follow certain procedures. These procedures include the download of updated/revised data from the Judicial Department on a monthly basis or other schedule set by the Judicial Department.

Any cost to the Judicial Department resulting from increasing data transfers under the bill is anticipated to be minimal, and would be offset by an anticipated increase in the fee that the Judicial Department charges recipients (currently \$1,000 per year) for these records. This cost recovery would be deposited into the Judicial Department's Data Processing Revolving Fund, which supports the Department's information technology operations.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****SB 704*****AN ACT CONCERNING THE RELEASE, SALE AND ACCURACY OF CONVICTION INFORMATION.*****SUMMARY:**

Starting May 1, 2008, the law will generally require consumer reporting agencies to (1) inform consumers when they are providing reports for employment purposes that include “criminal matters of public record,” such as arrest and conviction records; (2) verify any criminal matters of public record with the Judicial Department to ensure that information reported is complete and up-to-date; and (3) maintain procedures designed to ensure that any criminal matter of public record reported is complete and up-to-date.

This bill eliminates the requirement of verifying the information with the Judicial Department to ensure it is up-to-date and instead requires anyone, including a consumer reporting agency, who purchases “criminal matters of public record” from the Judicial Department, to follow certain procedures. They must at least:

1. purchase from the Judicial Department on a monthly basis or other schedule set by the Judicial Department, updated records or information available to comply with the bill’s provisions, and
2. update their records to permanently delete any erased records.

The bill requires the Judicial Department to make information concerning any “criminal matter of public record” that has been erased available to anyone who purchases these records. This information can include docket numbers or other information that allows the person to identify and permanently delete the erased records. Under current law, these erased records cannot generally be disclosed by the

Judicial Department. The erased records relate to criminal charges that were dismissed, nolle, or resulted in a not guilty finding or convictions for which a pardon was granted. The bill prohibits anyone from further disclosing the erased records.

It also alters the definition of “criminal matters of public record” to exclude erased records and pardons.

EFFECTIVE DATE: May 1, 2008

### **CRIMINAL MATTERS OF PUBLIC RECORD**

PA 07-243 defines “criminal matters of public record” as information obtained from the Judicial Department relating to arrests, indictments, convictions, erased records, pardons and outstanding judgments, and any other conviction information, as defined by law. “Conviction information” is criminal history record information that (1) has not been erased and (2) discloses that a person has pleaded guilty or no contest, or was convicted of, any criminal offense, and the terms of the sentence.

The bill excludes erased records and pardons from “criminal matters of public record.”

### **BACKGROUND**

#### **PA 07-243**

PA 07-243, as amended by PA 08-1, January Special Session, takes effect May 1, 2008. It applies to consumer reporting agencies that issue a consumer report that is used or expected to be used for employment purposes and that includes criminal matters of public record. A “consumer reporting agency” is a person who regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a fee, whose reports compile and report items of information on consumers that are matters of public record and are likely to have an adverse effect on a consumer’s ability to obtain employment. It does not include any public agency.

A “consumer report” is any written, oral, or other communication of

information bearing on an individual's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

PA 07-243 does not apply in the case of a U.S. government agency or department seeking to obtain and use a consumer report for employment purposes if the head of the agency or department makes a written finding pursuant to related federal law.

It also requires each person or agency holding conviction information or non-conviction information to update it promptly whenever related criminal history record information is erased, modified, or corrected, or when a pardon is granted.

### ***Employment Questions***

The law prohibits an employer from requiring an employee or prospective employee to disclose records, and from denying employment or discharging an employee solely because of records of erased arrest, criminal charges, or convictions. It requires an employment application form asking for criminal history information to contain a clear notice that the applicant does not need to disclose erased information and that the applicant is considered never to have been arrested and can so swear under oath. The erased records covered by the law include those relating to delinquency; families with service needs; youthful offender status; criminal charges that have been dismissed, nolle, or resulted in a not guilty finding; and absolute pardons.

### ***Exemption in Federal Law from Federal Consumer Notification Requirement***

Federal law on consumer reporting agencies restricts the permissible uses of consumer reports (15 USC § 1681b). It requires credit reporting agencies to notify consumers before a report about them is provided for employment purposes. The law prohibits a person using a credit report for employment purposes from taking an adverse action based on it unless the person has given the consumer a copy of the report and a description of the consumer's rights under

federal law. It creates an exemption for federal agencies in matters related to national security investigations.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (03/24/2008)